



D-1077+1

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:)	
Jay Paul Drummond, et al.)	
)	
Application No.: 09/193,787)	Art Unit 3685
)	
Confirmation No.: 2446)	
)	
Filed: November 17, 1998)	Patent Examiner
)	Jalatee Worjloh
Title: Automated Banking Machine)	
Apparatus and System)	

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

DECLARATION PURSUANT TO 37 C.F.R. § 1.132

I, Patrick C. Green, hereby declare as follows:

1. I am a former employee of Diebold, Incorporated and/or InterBold, a wholly owned subsidiary of Diebold, Incorporated (collectively referred to hereafter as "Diebold"). I was employed by Diebold as an engineer and engineering manager in the development of automated banking machines and associated computer software for those machines. I retired from Diebold in 2007. I began working in the automated banking machine industry in approximately 1974. I have extensive experience as an engineer in the aspects of communication, operation, and control of automated banking machines with regard to conducting financial transactions.
2. It is my understanding that the present application was filed November 17, 1998 and is entitled priority to provisional application 60/031,956 filed November 27, 1996.
3. Based on my knowledge and experience, a person having ordinary skill in the art of automated banking machines at the time of November 27, 1996 (hereinafter a "person having ordinary skill in the art") would have had a four-year college degree in engineering, such as mechanical or electrical engineering, and would have had at least four years of experience in designing automated banking machines (or equivalent years of work experience in the design of automated banking machines).
4. I have reviewed the patent to Morioka (US 5,650,605). Morioka is directed to a display device for use by physically disabled users, particularly those who may have difficulty in operating small numeric keys. Two large buttons, a "YES" button and a "NO" button, can be displayed on the display screen. Morioka's display device allows a user thereof to input information by touching the display screen.

5. I have reviewed the patent to Wagner (US 5,742,845). Wagner is directed to a system that permits a consumer to initiate a transaction and order from a merchant via the Internet and then switch to a separate conventional secure (credit card) processing network for the confidential financial aspects of the transaction.

The person having ordinary skill in the art would *not* have been able to make and use the purported invention in Wagner based on the disclosure provided by Wagner. This is because Wagner's use of the term "non-standard I/O device" is unclear and indefinite. As a result, Wagner's disclosure would be unclear and non-enabling to the person having ordinary skill in the art.

The person having ordinary skill in the art would *not* have recognized from Wagner any teaching, suggestion, motivation, or valid reason for an ATM to be considered a "non-standard I/O device" as used in Wagner. Thus, it would *not* have been obvious to the person having ordinary skill in the art to have used Wagner's extended protocols with an ATM, especially to control an ATM.

The person having ordinary skill in the art also would *not* have considered employing Wagner's complicated (and non-enabling) relationship between extended protocols and non-standard I/O devices for use with ATMs, especially when ATMs (at the time of November 27, 1996) did not need any such features to have direct network communication to carry out financial transactions.

The person having ordinary skill in the art would *not* have recognized from Wagner any teaching, suggestion, motivation, or valid reason for a browser to be a requirement of Wagner's system. The person having ordinary skill in the art would have understood that HTML documents could be interpreted without a browser.


6. I have considered the combined disclosures of the patents to Morioka and Wagner. The person having ordinary skill in the art would have recognized that there are significant and non-obvious differences between what is disclosed in the combined disclosures of these patents and an ATM that operates to conduct at least one financial transaction responsive to at least one mark-up language document.

7. The person having ordinary skill in the art would *not* have recognized from the combined disclosures (of Morioka and Wagner), a teaching, suggestion, motivation, or valid reason to produce an ATM that operates to conduct at least one financial transaction responsive to at least one mark-up language document.

The person having ordinary skill in the art also would *not* have recognized from these patents, any rationale to produce an ATM that operates to conduct at least one financial transaction responsive to at least one mark-up language document by: combining elements in these patents according to known methods to yield predictable results; simple substitution of one known element for another to obtain predictable results; use of known techniques to improve similar devices in the same way; applying known techniques to a known device ready for improvement to yield predictable results; choosing from a finite number of identified, predictable solutions, each with a reasonable expectation of success; known work in one field of endeavor prompting variations of such known work for use in either the same field or a different field based on design incentives or other market forces in a case where the variations would have been predictable to one of ordinary skill in the art; or some motivation from these patents that would have led the person having ordinary skill in the art to modify these patents to arrive at the noted ATM.

In conclusion, it would *not* have been obvious to the person having ordinary skill in the art, having full view of these patents, to have produced an ATM that operates to conduct at least one financial transaction responsive to at least one mark-up language document.

8. I hereby declare that all statements herein of my own knowledge are true, that all statements made on information and belief are believed to be true, and that the statements are made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both (18 U.S.C. § 1001), and may jeopardize the validity of the application or any patent issuing thereon.


Patrick C. Green

NOV 4, 2008
Date